Supreme Court, U.S.
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No. 01-1833

In The

Supreme Court of the United States

HERBERT M. VONDERHEIDE,

Petitioner,

v.

CAVALRY INVESTMENTS, LLC,
ASSIGNEE OF THE FIRST NATIONAL
BANK OF OMAHA,

Respondent.

On Petition For Writ Of Certiorari
To The Ohio Supreme Court

BRIEF FOR THE RESPONDENT IN OPPOSITION

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14 pages

QUESTION PRESENTED

When a state statute definition of "Collection Agency" excludes a purchaser of delinquent debt, should a court completely rewrite the definition of "Collection Agency" in the state statute so as to include a debt buyer?

REASONS FOR DENYING THE PETITION

The claim of Respondent revolves around the state statutory definition of collection agency. Petitioner is trying to include a debt buyer to the term collection agency. His theory is that if Respondent is a collection agency and does not have a place of business in Ohio, there is a misrepresentation which therefore violates the Fair Debt Collection Practices Act. Respondent, as a debt collector, is subject to the Fair Debt Collection Practices Act. However, it is not a collection agency as defined in Ohio Revised Code §1319.12(A). That statute defines a collection agency as "Any person, who for compensation, contingent or otherwise, or for valuable consideration, offers services to collect an alleged debt asserted to be owed to another." That definition is clear and unambiguous. Respondent is not a collection agency. Thus there is non-Federal ground which adequately supports the judgment. It is of sufficient breadth to support the judgment and is not inconsistent with any Federal law. This is one reason why the Court should deny the Petition for Certiorari. *Jankovich v. Indiana Toll Road Co.*, 379 U.S. 487, 13 L. Ed. 2d 489, 85 S. Ct. 493 (1965).

The Fair Debt Collection Practices Act does not define the terms "Creditor" and "Debt Collector." Even if Respondent is a debt collector and creditor, Petitioner does not say how that magically turns respondent into a collection agency. Petitioner somehow wants the Court to completely rewrite the state statutory definition because Petitioner thinks it should be so. Petitioner is trying to find a violation of the Fair Debt Collection Practices Act when none exists. The lower court followed established principles of statutory construction. There is no case or controversy. The issue that Petitioner raises does not present a special

or important issue for review, so the Petition for Certiorari should be denied.

CONCLUSION

For the reasons states above, the Writ for Certiorari should be denied.

Respectfully submitted,

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